

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DONALD KIRK,

Plaintiff,

V.

COMMISSIONER, SOCIAL
SECURITY ADMINISTRATION,

Defendant.

Case No. 6:20-cv-382-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Donald Kirk filed this appeal from a final administrative decision of the Commissioner of the Social Security Administration denying his application for Supplemental Security Income benefits. On March 16, 2022, the Court reversed the Commissioner's final administrative decision and remanded the matter to the Commissioner for further proceedings. Before the Court is Plaintiff's Unopposed Motion for Attorney's Fees Under the Equal Access to Justice Act. Docket No. 25. The motion was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact and recommendations for disposition. Docket No. 26.

On June 17, 2022, Judge Mitchell issued a Report recommending that the Court grant the unopposed motion and award Plaintiff \$5,864.90 in fees. Docket No. 27. No objections have been filed.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and

Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, the Commissioner did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 27) as the findings of this Court. Plaintiff's unopposed motion for EAJA fees (Docket No. 25) is **GRANTED**. The Commissioner shall pay Plaintiff for fees incurred totaling \$5,864.90 pursuant to the EAJA, 28 U.S.C. § 2412(d), with the funds payable to Plaintiff and forwarded to Plaintiff through his attorney of record.

So **ORDERED** and **SIGNED** this 13th day of **July, 2022**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE